

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

SWATI ENTERPRISES, INC.,

Plaintiff,

v.

WESTCHESTER SURPLUS LINES
INSURANCE COMPANY,

Defendant.

§
§
§
§
§
§
§
§
§
§

Case No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Westchester Surplus Lines Insurance Company (“Westchester”) files this Notice of Removal, and would respectfully show the Court the following:

Introduction

1. On August 30, 2019 the Plaintiff, SWATI Enterprises, Inc. (“Plaintiff”), filed a lawsuit against Westchester in Cause No. B-204474; *SWATI Enterprises, Inc. v. Westchester Surplus Lines Insurance Company*; In the 60th Judicial District Court of Jefferson County, Texas. A certified copy of the Original Petition is attached as Exhibit 1. Service of process was made upon Westchester on November 4, 2019.

2. Westchester timely filed this Notice of Removal within the 30-day deadline required by 28 U.S.C. §1446(b).

Bases for Removal

3. Removal is proper based on diversity of citizenship. 28 U.S.C. 1332(a). In particular:

a. Plaintiff is an corporation residing in Jefferson County, Texas.

b. Westchester is a Georgia corporation with its principal place of business in Philadelphia, Pennsylvania. Therefore, Westchester is a citizen of Georgia and Pennsylvania.

4. Plaintiff alleges in its Original Petition that it seeks monetary relief over \$200,000.00 but not more than \$1,000,000.00. Accordingly, the amount in controversy is in excess of the sum of \$75,000.00. All requirements are met for removal under 28 U.S.C. §§ 1332 and 1441(b).

5. Venue is proper in this Court under 28 U.S.C. § 1441(a) because this district and division embrace Jefferson County, Texas, the place where the removed action has been pending.

6. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed with the Clerk of the 60th Judicial District Court of Jefferson County, Texas and all parties.

7. All pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a). Those filings consist of Exhibit 1 as described above, and the following additional filings, as required by Local Rule CV-81¹:

- Exhibit 2: Defendant Westchester Surplus Lines Insurance Company's Original Answer;
- Exhibit 3: Defendant Westchester Surplus Lines Insurance Company's First Amended Original Answer;
- Exhibit 4: A list of all parties and counsel in the case, their party type, the current status of the removed case, and the name and address of the court from which the case was removed
- Exhibit 5: The Docket Sheet;
- Exhibit 6: Civil Cover Sheet ; and
- Exhibit 7: A record of which parties have requested jury trial.

¹ Plaintiff has not yet returned the Citation to the state court.

Jury Demand

8. Pursuant to Federal Rule of Civil Procedure 38, Westchester demands a trial by jury.

Prayer

Defendant, Westchester Surplus Lines Insurance Company, respectfully gives notice that this state court action has been removed and placed on this Court's docket for further proceedings. Defendant further requests any additional relief to which it is justly entitled.

Respectfully submitted,

COZEN O'CONNOR

s/ Joseph A. Ziemianski

Joseph A. Ziemianski

Attorney-in-Charge

Texas State Bar No. 00797732

Southern District of Texas Bar No. 25915

Karl A. Schulz

Texas State Bar No. 24057339

Southern District of Texas Bar No. 884614

1221 McKinney, Suite 2900

Houston, Texas 77010

Telephone: (832) 214.3900

Telecopy: (832) 214.3905

E-mail: jziemianski@cozen.com

E-mail: kschulz@cozen.com

OF COUNSEL:

COZEN O'CONNOR

1221 McKinney, Suite 2900

Houston, Texas 77010

Telephone: (832) 214.3900

Telecopy: (832) 214.3905

ATTORNEYS FOR DEFENDANT
WESTCHESTER SURPLUS LINES
INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing instrument was served via the Court's electronic filing system and/or email on December 3, 2019 to:

Mr. Jason M. Byrd
The Byrd Law Firm
448 Orleans Street
Beaumont, Texas 77701
Counsel for Plaintiff, SWATI Enterprises, Inc.

s/ Joseph A. Ziemianski
Joseph A. Ziemianski